

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

**BARRY F. MARTIN,**

**Plaintiff,**

**vs.**

**C&F FOODS,**

**Defendant.**

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**Case No. 1:06 CV00012 LMB**

**ORDER**

This matter is before the court on the pro se Complaint of Barry F. Martin alleging employment discrimination by defendant based upon race, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.

The defendant was not properly served with summons until August 3, 2006.

On November 7, 2006, the court issued an Order Setting Rule 16 Conference, in which the parties were instructed to submit their forms either consenting to the jurisdiction of the undersigned United States Magistrate Judge or opting to have the case assigned to a United States District Judge. (Doc. No. 17). On November 24, 2006, defendant filed a consent form consenting to the jurisdiction of the undersigned United States Magistrate Judge. During the Rule 16 Conference held on December 5, 2006, the undersigned instructed plaintiff to submit his consent/option form. The Clerk of Court issued a letter on February 2, 2007, again instructing plaintiff to submit his consent/option form. To date, plaintiff has not filed a consent/option form.

Local Rule 2.08 states, in pertinent part:

In the event the action is assigned to a magistrate judge, each party shall execute and file within 20 days of its appearance either a written consent to the exercise of authority by the magistrate judge under 28 U.S.C. § 636 (c), or a written election to have the action reassigned to a district judge. Each party shall indicate its consent or election on a form provided by the Court. Consent to a magistrate judge's authority does not constitute a waiver of any jurisdictional defense unrelated to the grant of authority under 28 U.S.C. § 636 (c).

E.D. Mo. L.R. 40-2.08 (A). As noted, plaintiff has not filed the appropriate consent/option form as required by Local Rule 2.08. Thus, the court will order that the matter be re-assigned to a United States District Judge.

Accordingly,

**IT IS HEREBY ORDERED** that the Clerk of Court is directed to re-assign the instant action to a United States District Judge.

Dated this 1st day of March, 2007.

A handwritten signature in blue ink that reads "Lewis M. Blanton". The signature is written in a cursive style with a horizontal line underneath it.

LEWIS M. BLANTON  
UNITED STATES MAGISTRATE JUDGE